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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,643	03/08/2004	Percival C. Banks	Banks 0401	2231
<div>7590 10/04/2007</div> <div>H. Michael Brucker Suite 110 5855 Doyle Street Emeryville, CA 94608</div>				
<div>EXAMINER</div> <div>YOO, REGINA M</div>				
<div>ART UNIT PAPER NUMBER</div> <div>1744</div>				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/796,643	Applicant(s) BANKS, PERCIVAL C.	
	Examiner Regina Yoo	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL ACTION

Response to Amendment

1. The amendment filed on 7/02/2007 has been received and claims 1-14 are pending.

Claim Objections

2. Claims 1-4 and 6 objected to because of the following informalities:
 - the newly amended claims 1, 4 and 6 citing a "seal ridge" of the filter cover should be referred to as "cover ridge" for consistency with the disclosure in the Specification (see p.5, lines 8 and 18);
 - the newly amended claims 2-3 citing a "protective ridge" surrounding the vent should be referred to as "vent ridge" for consistency with the disclosure in the Specification (see p. 4, lines 24-25).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (4915913) in view of Lorenz (4551311).

As to Claims 1-4 and 8-9, Williams ('913) discloses a vent filter seal for a sterilization container (2) having planar interior surfaces and exterior surfaces that enclose an interior space (see entire document, particularly Figures 1-14) and a vent (50, 52) in one of the container planar surfaces (C) through which sterilization media is introduced into the interior space of the container from outside the container and a sheet filter (85) inside the container (2) (see Figures 4 and 6) covering the vent (50, 52), wherein the sheet filter (85) extends over the vent (50, 52) and vent recess (54) (see Figures 4 and 6), comprising:

a vent recess (54) formed in an exterior container planar surface (C) surrounding the vent (50, 52) and a protective ridge on the opposite side of the vent recess surrounding the vent (see Figures 1 and 4-6) wherein said vent recess (54) is concave relative to the exterior planar surface (see Figures 1 and 4-6); and

a filter cover (70) having a planar surface with a seal ridge (opposite side of the recess/groove 77) in said planar surface wherein said seal ridge (opposite side of the

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recess/groove 77) is coextensive with said vent recess (54) and sized to fit with said vent recess (54) (see entire document, particularly Col. 5, lines 58-62) whereby when said filter cover (70) is operatively secured in place, said seal ridge (opposite side of the recess/groove 77) is capable of being forced against the sheet filter (85) therebetween forming a seal surrounding the vent (see Figures 4 and 6).

Williams ('913) discloses that the vent filter seal is further comprised of a locking mechanism (80, 69) securing said filter cover (70) onto the container (C) and is capable of urging said seal ridge (opposite side of the recess/groove 77) into said vent recess with a positive force (see Figures 4-6 and 9 and Col. 5, line 12 to Col. 6, line 2).

Williams ('913) does not appear to specifically teach that the vent recess (54) is formed in an interior container planar surface wherein said vent recess (54) is concave relative to the interior planar surface and said seal ridge is forced against a gasket and the sheet filter to form a seal nor that said gasket is secured wholly within said vent recess where it is protected against damage.

As to the limitation that the vent recess (54) is formed in an interior container planar surface wherein said vent recess (54) is concave relative to the interior planar surface, where the protective ridge on the opposite side of the vent recess is then on the exterior planar surface, and said seal ridge is forced into the vent recess, Williams ('913) discloses a mirror-image/opposite configuration and does not appear to specifically teach this particular configuration. It would have been obvious to one of ordinary skill in this art at the time of invention to modify the configuration of the vent

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filter seal by reversing the configuration of the vent recess so that the recess is formed in an interior container planar surface so as to be concave relative to the interior planar surface and also to reverse the configuration of the filter cover so that the seal ridge (opposite side of the recess/groove 77) is capable of being inserted/forced into the vent recess as an alternate configuration/arrangement/design for the vent filter seal, particularly since there is a covering material that contains vent holes (in alignment with 74) between cover (c) surface with vent holes (50) and the sheet filter (85) (see Figure 6) where these two sets of vent holes are offset with respect to each other and thus there is minimum/no chance for the sheet filter (85) to be punctured by a sharp object placed onto the external surface of the cover/lid (c) and having a ridge surrounding the vent (50, 52) will not provide a further improvement/significance/advantage.

As to the limitation that a gasket is secured wholly within said vent recess where it is protected against damage, it was known in the art at the time of invention to provide a gasket is secured wholly within a vent recess where it is protected against damage. Lorenz ('311) discloses a vent filter seal for a sterilization container (10, 12) having planar interior surfaces and exterior surfaces that enclose an interior space (see entire document, particularly Figures 1 and 5) and a vent (see Figure 4) in one of the container planar surfaces (48) through which sterilization media is introduced into the interior space of the container from outside the container and a sheet filter (18) inside the container covering the vent (16) (see Figures 4-5 and Col. 4, lines 28-44) comprising:

a vent recess (50) in an interior container planar surface (see Figure 4);

a filter cover (14) having a planar surface with a seal ridge (24) in said planar surface wherein said seal ridge (24) is coextensive with said vent recess (50)

a gasket (52) secured wholly within said vent recess (24) where it is protected against damage and wherein the sheet filter (18) extends over the vent and vent recess,

in order to press the filter sheet against the opposite surface and thus preventing the passage of microbial contamination underneath filter sheet (see Figure 4 and Col. 4, lines 59-68).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide a gasket in the vent recess of the vent filter seal of Williams in order to press the filter sheet between two surfaces to prevent entry of microbial contamination to the interior of the sterilization container as shown by Lorenz.

As to Claims 5 and 10, Williams ('913) discloses the vent filter seal wherein said filter cover (70) and the container planar surface (C) containing the vent (50, 52) are spaced apart at the location of the vent (52, 50) when said filter cover (70) is locked onto the container (C) (see Figures 4 and 6).

Lorenz ('311) also discloses that the vent filter seal wherein said filter cover (14) and the container planar surface (48) containing vent (see Figure 4) are spaced apart at the location of the vent (16 and the vent on 48) when said filter cover (14) is locked onto the container (10, 12) (see Figure 4).

As to Claims 6-7 and 11-12, Williams ('913) discloses the vent filter seal wherein the vent (52, 50) is a pattern of holes (50) through the container (C) and the filter cover (70) further comprises a pattern of holes (74) through said cover (70) within the area defined by said seal ridge (opposite side of the recess/groove 77) and wherein the holes (50) of the vent (52) and said holes (74) of said filter cover (70) are offset relative to each other when said filter cover (70) is secured in place (see Figures 1 and 4-6).

Thus, Claims 1-12 would have been obvious within the meaning of 35 U.S.C. 103(a) over the combined teachings of Williams ('913) and Lorenz ('311).

6. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (4915913) in view of Lorenz (4551311) as applied to claims 1 and 8 above, and further in view of Stolzman (5361928).

Williams ('913) and Lorenz ('311) are relied upon for disclosure described in the rejection of claims 1 and 8 under 35 U.S.C. 103(a).

While Lorenz ('311) discloses a gasket with a rectangular cross-section that forms a part of the vent filter seal for a sterilization container, Lorenz ('311) does not appear to specifically teach that the gasket has a generally concave cross-section.

It was well known in the art (in the area of using gaskets for sealing closures) at the time of invention to utilize gaskets of various shapes/cross-sections. Stolzman ('928) exemplifies a closure assembly comprised of a concave cross-sectioned gasket (40) secured wholly within a recess where it is protected against damage in order to provide

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a seal between two parts (see entire document, particularly Figures 2-5). It would have been obvious to one of ordinary skill in this art at the time of invention to provide a gasket of a concave cross-section in the vent filter seal of Williams as modified by Lorenz in order to provide an alternate gasket configuration for sealing two parts to prevent entry of contaminants (such as the container and the filter cover) as exemplified by Stolzman.

Thus, Claims 13-14 would have been obvious within the meaning of 35 U.S.C. 103(a) over the combined teachings of Williams ('913), Lorenz ('311) and Stolzman ('928).

Response to Arguments

7. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references relate either to the field of the invention or subject matter of the invention, but are not relied upon in the rejection of record: 4661326, 4948566, 4512498, 3432177, 4562047, 4671943, 4971774.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Yoo whose telephone number is 571-272-6690. The examiner can normally be reached on Monday-Friday, 9:30 am - 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RY



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